



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

EDWARDS, T BRADLEY  
7401 S MAIN STREET  
HOUSTON TX 77030-4509

#### **Respondent Name**

New Hampshire Insurance Co

#### **Carrier's Austin Representative**

Box Number 19

#### **MFDR Tracking Number**

M4-11-1286-01

#### **MFDR Date Received**

December 20, 2010

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "29822 / 59 is for the debridement of the glenoid labrum which although in the shoulder area is considered separate tissue. The debridement was done to treat the type 2 SLAP lesion."

**Amount in Dispute:** \$193.92

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Carrier paid these bills IAW the Texas Labor Code and DWC Rules..."

**Response Submitted by:** Flahive Ogden & Latson

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 18, 2010	29822	\$193.92	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the fee guideline procedures for professional medical services.
3. 28 Texas Administrative Code §133.4 requires written notification to health care providers regarding contractual agreements for informal and voluntary networks.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - W1 – Workers Compensation Sate Fee Schedule Adjustments.
  - 59 – Processed based on multiple or concurrent procedure rules.
  - 95 – Plan procedures not followed.

## **Issues**

1. Are the disputed services subject to a contractual agreement between the parties to this dispute?
2. Did the submitted medical bill support the use of the -59 modifier?
3. Is the requestor entitled to reimbursement?

## **Findings**

1. The insurance carrier reduced disputed services as PPO reduction. Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on March 30, 2011, the Division requested the respondent to provide a copy of the referenced contract as well as documentation to support notification to the healthcare provider, as required by 28 Texas Administrative Code §133.4, that the insurance carrier had been given access to the contracted fee arrangement. Review of the submitted information finds that the documentation does not support notification to the healthcare provider in the time and manner required. The Division concludes that, pursuant to §133.4(g), the insurance carrier is not entitled to pay the health care provider at a contracted fee. Consequently, per §133.4(h), the disputed services will be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. 28 Texas Administrative Code §134.20(b)(1) states, in pertinent part, "for coding, billing reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; ...and other payment policies in effect on the date a service is provided..." The medical bill for the service in dispute included the -59 modifier. The 59 modifier is described in AMA CPT as used to identify procedures/services that are not normally reported together, and that are not ordinarily encountered or performed on the same day by the same physician. According to Medicare Learning Network Matters Number, SE0715, the 59 modifier must be supported by documentation that indicates a different session, different surgery, different anatomical site or organ system, separate incision/excision, different agent, different lesion, or different injury or area of injury. Review of the document titled "Operation Report" finds that the requestor does not support that the service in dispute represents a separate service at a different area of injury. The Division concludes that the requestor did not support the use of the -59 modifier.  
  
The requestor billed 29822-59 however, application of Correct Coding Initiative (CCI) edits in accordance with 28 Texas Administrative Code §134.203(b)(1) indicate 29822 is not separately payable when billed along with 29826. No additional reimbursement is recommended.

## **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

## ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

## **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
December , 2013  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**